

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 38, 47 and 53 are requested to be cancelled.

Claims 30, 39 and 48 are currently being amended.

No new claims are being added.

This amendment changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 30-37, 39-46, 48-52, 54 and 56-59 are now pending in this application.

Examiner Interview Summary

On April 14, 2009, a telephonic examiner interview took place between Examiner Pierre Elisca and counsel of record Steven C. Becker. The parties discussed the topics on the Applicant Initiated Interview Request Form (attached). In particular, Mr. Becker distinguished claims 30, 34 and 38 from the Ham and Kakiyara references. No exhibit or demonstration was shown. No agreement was reached. An informal amendment proposal was submitted on April 30, 2009 (attached). Examiner Elisca then phoned to say that further searching would be needed.

In paragraphs 3-4 of the Office Action, claims 30-54 and 56-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,292,147 to Ham (Ham) in view of U.S. Patent No. 6,959,282 to Kakiyara et al. (Kakiyara). This rejection is respectfully traversed.

Claim 30 has been amended to recite adjusting a price lower for a product for a person associated with a user identifier based at least in part on location data. Neither Ham nor

Kakihara discloses adjusting a price lower for a product, nor do they disclose adjusting a price lower for a person associated with a user identifier.

Further, the combination of Ham and Kakihara is improper. The Ham reference is directed to a self-positioning GPS antenna, which can be incorporated into a cellular phone. (Ham, col. 3 lines 11-13). Ham fails to provide any description of setting a price for a product based on location data.

Kakihara is directed to an in-vehicle device including a navigation system. (Kakihara, Fig. 3). A GPS antenna is mounted on the vehicle. (Kakihara, col. 39 line 48). Toll charges are made when a vehicle enters a charging area. Later excursions from the charging areas into a buffer area and returns from the buffer area to the charging area are not double charged. (Kakihara, Abstract).

The Office Action states:

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the navigation system for cars of Ham by including an insurance product or company that is connected to the navigation system as taught by Kakihara Murakami since it is an alternate means for acquiring insurance information about the location of a car/object.

(Office Action, p. 3). It is respectfully submitted that the Office Action does not provide an articulated reasoning having a rational underpinning for combining the Ham and Kakihara references. Pursuant to MPEP 2141, Section III:

The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Court quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), stated that “[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with

some rational underpinning to support the legal conclusion of obviousness.” *KSR*, 550 U.S. at ___, 82 USPQ2d at 1396.

The Office Action states that the “navigation system for cars of Ham” can be modified “by including an insurance product or company that is connected to the navigation system as taught by Kakihara Murakami.” This combination, however, would result in combining a navigation system for cars of Ham with a navigation system mounted in a vehicle of Kakihara. Even if this combination were proper, it would not teach a handheld computer as recited in Claim 30. Thus, the Office Action does not provide an articulated reasoning having a rational underpinning for combining the Ham and Kakihara references to arrive at the system of Claim 30.

Further, the combination of Ham and Kakihara would destroy the intended purpose of the system of Kakihara. Kakihara’s navigation system is an “in-vehicle device” having a GPS antenna “mounted on the vehicle.” (Kakihara, col. 39 lines 12 and 48). The navigation system must be mounted on the vehicle in order to serve the purpose of providing a “toll collection arrangement based on the position and travel of a vehicle.” (Kakihara, Abstract). If components of the Kakihara system are moved into the cellular phone of Ham, the intended purpose of Kakihara (e.g., improved toll collection for a vehicle) would be destroyed. The modified device could be removed from the car, frustrating the purpose of reliable toll collection for a vehicle.

Accordingly, reconsideration and withdrawal of the rejection of Claim 30 is respectfully requested.

Claims 39 and 48 recite similar elements and are allowable for similar reasons.

The remaining dependent claims depend variously from claims 39 and 48 and are allowable for at least the same reasons, as well as additional reasons. For example, Claim 33 recites “wherein the data processor is further configured to price the product based on a date or a time of day” and claims 41 and 51 contain similar recitations. Ham and Kakihara fail to teach or suggest these elements.

Claim 34 recites “wherein the data processor is further configured to price the product based on an environmental condition, including a weather condition” and Claim 42 contains a similar recitation. The Office Action states:

As per claim 34 Ham discloses a car (or object) navigation system that is adapted to be installed on a car for estimating a location of the car or object, detecting occurrence of an accident and performing communication data, a location unit for generating car location (see., abstract, figs 2-4, col 1, lines 23-34, col 2, lines 43-60, col 3, lines 9-67).

(Office Action, pp. 3-4). The Office Action has not pointed to any teaching in Ham that a data processor is configured to price the product “based on an environmental condition, including a weather condition.”

Claim 36 recites “wherein the data processor is configured to dynamically adjust the price for the product based on the location of the handheld computer” and claims 44 and 52 contain similar recitations. Ham and Kakihara fail to teach or suggest these elements.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date /May 12, 2009/_____

By /Steven C. Becker/_____

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